

Court of Appeals, State of Michigan

ORDER

Patricia Foldi v YMCA of Metropolitan Detroit

Docket No. 277517

LC No. 06-608336-NO

Richard A. Bandstra
Presiding Judge

Michael R. Smolenski

Jane M. Beckering
Judges

Pursuant to MCR 7.205(D)(2), in lieu of granting the delayed application for leave to appeal, the Court VACATES the circuit court's March 22, 2007 order denying defendant Artisan Tile, Inc.'s motion for summary disposition, and REMANDS this matter to the circuit court with direction that it shall enter an order granting that summary disposition motion. Plaintiff has alleged against Artisan Tile, Inc. only the duty that it had under the contract. That being so, Artisan Tile, Inc. has no duty in tort to plaintiff. *Fultz v Union-Commerce Associates*, 470 Mich App 460, 467; 683 NW2d 587 (2004). Where there is no legal duty, there can be no actionable negligence. *Hakari v Ski Brule, Inc.*, 230 Mich App 352, 359; 584 NW2d 345 (1998). This order has immediate effect. MCR 7.215(F)(2). The Court does not retain jurisdiction.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

OCT 12 2007

Date

Sandra Schultz Mengel

Chief Clerk